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DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Availability of the Bog Creek Road Project Final Environmental Impact Statement and Draft Records of Decision

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security and U.S. Forest Service, Department of Agriculture.

ACTION: Notice of Availability of Final Environmental Impact Statement and Draft Records of Decision concerning the repair and maintenance of Bog Creek Road and closure of certain roads within the Blue-Grass Bear Management Unit in the Selkirk Mountains in Boundary County, Idaho; Public Review.

SUMMARY: U.S. Customs and Border Protection (CBP) and the U.S. Forest Service (Forest Service) Idaho Panhandle National Forests (IPNF) announce the availability of the Bog Creek Road Project Final Environmental Impact Statement (EIS) and the agencies' respective Draft Records of Decision (ROD). The Final EIS identifies and assesses potential impacts upon the environment of: repairing and maintaining an approximately 5.6-mile section of the existing Bog Creek Road, which is located in the Selkirk Mountains in Boundary County, Idaho, within approximately two miles of the Canadian border, on land within the Blue-Grass Bear Management Unit (BMU) that is managed by the Forest Service; and closing for motorized use additional roads within the Blue-Grass BMU to comply with the *Forest Plan Amendments for Motorized Access*

Management within the Selkirk and Cabinet-Yaak Grizzly Bear Recovery Zones (Access Amendment) and to reduce road density in the Blue-Grass BMU.

The CBP Draft ROD addresses the decision to approve the funding for and implement the repair and maintenance of the Bog Creek Road. The Forest Service Draft ROD addresses the decisions to: approve CBP's repair and maintenance of Bog Creek Road for administrative use by CBP, the Forest Service, and others; implement the motorized closure of seasonally restricted Forest Service roads to establish grizzly bear core area habitat and meet Access Amendment standards for the Blue-Grass BMU; and implement changes in the seasonally restricted designation of roads in the Blue-Grass BMU. This document provides instructions for filing objections to the Forest Service's Draft ROD.

DATES: The CBP Draft ROD will be available until April 1, 2019. CBP will issue a Final ROD at about the same time the Forest Service issues a Final ROD but no sooner than April 1, 2019.

The Forest Service Draft ROD will be available for 45 days after the date of publication in the newspaper of record, the Coeur d'Alene Press. Objections to the Forest Service Draft ROD must be filed within 45 days of such publication and filed in the manner specified in the ADDRESSES section of this document. After the 45-day objection period ends and after the Forest Service responds in writing to and addresses any objections, the Forest Service will issue a Final ROD. For detailed instructions on how to file an objection, see the SUPPLEMENTARY INFORMATION section below.

ADDRESSES:

For Obtaining Copies of the Final EIS and Draft Records of Decision: Electronic copies of the Final EIS, CBP Draft ROD, and Forest Service Draft ROD are available at <https://www.fs.usda.gov/project/?project=41296> and <https://www.cbp.gov/document/environmental-assessments/bog-creek-road-project-environmental-impact-statement>.

CD-ROM and print copies are available by sending a request to Joe Zidron at Joseph.Zidron@cbp.dhs.gov or 949-643-6392 or at the following Forest Service locations:

- The IPNF Supervisor's Office, 3815 Schreiber Way, Coeur d'Alene, Idaho;
- Sandpoint Ranger District, 1602 Ontario Street, Sandpoint, Idaho;
- Bonners Ferry Ranger District, 6286 Main Street, Bonners Ferry, Idaho;
- and
- Priest Lake Ranger District, 32203 Highway 57, Priest River, Idaho.

For Filing Objections to the Forest Service Draft ROD: Objections to the Forest Service Draft ROD, including attachments, must be filed via fax, mail, express delivery, messenger service, email, or hand-delivery to: Objection Reviewing Officer, USDA Forest Service, Northern Region, 26 Fort Missoula Road, Missoula, MT 59804. Hand-delivery hours are Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding holidays. FAX to (406) 329-3411, Email: appeals-northern-regional-office@fs.fed.us. For fax and email, include "Bog Creek Road Project Objection" in the subject line. Acceptable formats for electronic objections are text or html e-mail, Adobe portable document format (pdf), and formats viewable in Microsoft Office applications.

FOR FURTHER INFORMATION CONTACT: Joe Zidron, CBP, Border Patrol and Air and Marine Program Management Office, by telephone at 949-643-6392, or email at joseph.zidron@cbp.dhs.gov or Kim Pierson, Deputy Forest Supervisor, Forest Service, IPNF, by telephone at 208-765-7220, or email at kpierson@fs.fed.us. Persons who require assistance accessing information should contact the U.S. Department of Agriculture's (USDA) Target Center at 202-720-2600 (voice and TDD) or contact USDA through the Federal Relay Service at 800-877-8339.

SUPPLEMENTARY INFORMATION:

Proposed Action

U.S. Customs and Border Protection (CBP) and the U.S. Forest Service (Forest Service) Idaho Panhandle National Forests (IPNF) (collectively the Agencies) are proposing a road repair, maintenance, and motorized closure project in the Continental Mountain area of the Idaho Panhandle National Forests within the Bonners Ferry and Priest Lake Ranger Districts.¹ The project has two objectives: 1) to provide safe east-west access for administrative use (as explained below) to this section of the U.S.–Canada border across the Selkirk Mountains, and 2) to meet grizzly bear motorized access standards within the Blue-Grass Bear Management Unit (BMU) of the Selkirk Grizzly Bear Recovery Zone in order to comply with the *Forest Plan Amendments for Motorized Access Management within the Selkirk and Cabinet-Yaak Grizzly Bear Recovery Zones* (Access Amendment).

¹ This proposal is being made pursuant to the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 et seq., the President's Council on Environmental Quality Regulations for Implementing the NEPA (40 CFR parts 1500-1508), DHS Directive 023-01, Revision 01, and Instruction 023-01-001-01, Revision 01, and CBP and Forest Service NEPA guidelines.

The Bog Creek Road Project Final EIS has been prepared to identify and assess potential impacts from the Proposed Action on the environment. The Proposed Action was developed through collaborative efforts between CBP, the Forest Service, and the public, and was designed to meet the goals and objectives established for the project while meeting as many other resource needs as possible. The Proposed Action consists of three components: 1) road repair and maintenance of Bog Creek Road and change in motorized use designation; 2) change in motorized use designation for Blue Joe Creek Road; and 3) motorized closure of selected seasonally restricted Forest Service roads. The Proposed Action is described below.

The first component is the repair and maintenance of an approximately 5.6-mile section of Bog Creek Road (Forest Service Road [FSR] 1013), which would be conducted to allow the road to meet Forest Service road maintenance level 2 standards and would generally allow access for high-clearance vehicles. Maintenance level 2 roads are described in Forest Service Handbook 7709.58. Bog Creek Road is currently designated as a seasonally restricted road. Motorized use by the Forest Service, CBP, law enforcement, and other administrative agencies is permitted between April 1 and November 15 (active bear year) but is limited to 57 administrative vehicle round trips per active bear year. After road repair activities, the road designation would change to *administrative open* (as-needed administrative motorized access). Under the *administrative open* road designation, Bog Creek Road would be open to as-needed administrative motorized access but not open to the public for motorized travel.

Repair and maintenance would consist of grading and resurfacing areas of the road that have been heavily eroded by surface water flows, filling potholes, and removing

protruding boulders. Repair would also include installation of six new culverts and replacement of six of the existing 67 corrugated metal pipe culverts located along the length of the roadway because they have partially rusted through, otherwise exceeded their usable life, or do not meet current design standards for width and capacity. The most intensive repair would occur at Spread Creek, where a culvert failure and road washout have made the road completely impassable. The road would not be widened, but limited areas that no longer meet minimum width requirements may require cut and fill work to achieve the desired road operating and safety standards. Trees and other vegetation within the roadway and to either side would be grubbed or cut back to facilitate safe vehicle passage.

The second component is the change in motorized designation of Blue Joe Creek Road (FSR 2546). Blue Joe Creek Road extends from the eastern terminus of the Bog Creek Road, running 5.5 miles alongside Blue Joe Creek, to the Continental Mine property. Blue Joe Creek Road is currently designated as seasonally restricted, and motorized access is limited to 57 vehicle round trips per active bear year. Under the Proposed Action, the current seasonal restrictions that limit the number of motorized administrative trips along Blue Joe Creek Road would be removed. The road would be designated as *administrative* open, which would allow for as-needed administrative motorized trips. This change in designation, when combined with the Bog Creek Road designation change, would allow for administrative trips by private property owners to access their property within the Blue-Grass BMU.

The final component is the motorized closure of selected seasonally restricted Forest Service roads. Under the Proposed Action, approximately 26 miles of seasonally

restricted Forest Service roads would be closed to all wheeled motorized use within the Blue-Grass BMU. Closing the roads would allow the Forest Service to meet the requirements of at least 55 percent of the BMU as core area habitat, and no more than 26 percent of the BMU having a total motorized route density (TMRD) greater than 2 miles per square mile, as specified in the Access Amendment. The means by which motorized road closure would take place would vary by site and would include both decommissioning and long-term storage. Decommissioning involves permanently removing a road from the Forest Service transportation system. Long-term storage involves rendering a road undrivable. Roads stored for creation of grizzly bear core habitat would remain stored for a minimum of ten years. On-the-ground road work is typically the same or very similar for decommissioning and long-term storage, as both are intended to prevent future failures and erosion hazards. Both methods may involve one or a combination of the following treatments: fully or partially recontouring the road prism, ripping the road surface, removing culverts and recontouring stream crossings, planting and seeding, mulching, or slashing disturbed areas.

All roads proposed for motorized closure under the Proposed Action are currently classified as seasonally restricted Forest Service roads. Administrative motorized use of these roads is permitted between April 1 and November 15; non-motorized public access on these roads is permitted year-round.

Alternatives

The Agencies developed alternatives to the Proposed Action described above and disclose the environmental impacts of these alternatives in the Final EIS. In addition to the No-Action Alternative (Alternative 1) and the Proposed Action (Alternative 2), there

are three other action alternatives analyzed: Modified Proposed Action (Alternative 3 – Preferred Alternative), Blue-Grass BMU West–East Open Access (Alternative 4), and Alternative 4 Modified. Alternative 4 Modified was developed for inclusion in the Final EIS in response to collaborative stakeholder alternative suggestions received during the Draft EIS public comment period.

Alternative 1, the No-Action Alternative, represents the effects of not implementing the proposed repair and maintenance of Bog Creek Road and motorized closure of seasonally restricted Forest Service roads, while taking into account the effects of other past, ongoing, and reasonably foreseeable activities occurring in the area. This alternative proposes that no repair and maintenance activities would occur on the 5.6-mile section of Bog Creek Road and that the 26 miles of seasonally restricted Forest Service roads would continue to be available for motorized use in accordance with seasonal access restrictions. There would be no change in Forest Service management of the roads and CBP activities in the Blue-Grass BMU. Although the Forest Service would continue to examine road closure options to meet Access Amendment requirements within the Blue-Grass BMU under the No-Action Alternative, compliance with the Access Amendment standards would not change until currently unidentified other viable road closure options are implemented.

Alternative 3 is a modified version of the Proposed Action that would close a different set of seasonally restricted Forest Service roads to motorized access. It is the Agencies' preferred alternative. The repair and maintenance activities proposed for Bog Creek Road and the *administrative open* designation for Bog Creek Road and Blue Joe Creek Road are the same as described under the Proposed Action. Under Alternative 3,

approximately 25 miles of Forest Service roads would be closed to all motorized use by the Forest Service within the Blue-Grass BMU. This would allow the Forest Service to meet the Access Amendment grizzly bear core area habitat requirement of 55 percent and the TMRD requirement of 26 percent. Two of the nine roads proposed for motorized road closure under Alternative 3 would be different from the roads proposed for closure under the Proposed Action. These roads were included in this alternative because closing these roads would create more grizzly bear core area habitat in upper Grass Creek, a place that has been heavily and continuously used by grizzly bears since at least the 1980s. All roads proposed for motorized closure under Alternative 3 are classified as seasonally restricted Forest Service roads. Administrative motorized use of these roads is permitted between April 1 and November 15. Non-motorized public access on these roads is permitted year-round.

Alternative 4 is a modified version of the Proposed Action that would open Bog Creek Road and roads along the eastern approach to Bog Creek Road to public motorized access. Under Alternative 4, Bog Creek Road repair and maintenance and the motorized closure of seasonally restricted Forest Service roads would be identical to the Proposed Action. After repair of Bog Creek Road is completed, Alternative 4 would designate the 5.6 miles of the repaired Bog Creek Road as open for public motorized access year-round. However, winter motorized snowmobile use by the public is currently not allowed on Bog Creek Road as a result of rulings by the United States District Court of the Eastern District of Washington on November 7, 2006, and February 27, 2007, relating to recovery of Selkirk Mountain woodland caribou and the potential impacts of snowmobile use within the recovery area. Approximately 4.5 miles of Blue Joe Creek Road would

change to an *administrative open* designation (as-needed administrative motorized access). Additionally, the designation of roads along the eastern approach to Bog Creek Road (1 mile of FSR 2546 and FSRs 1011, 636, and 1009) would also change from the current seasonally restricted designation (limited motorized access) to an open road designation (public motorized access) to allow for continuous public motorized travel across the Blue-Grass BMU. Under Alternative 4, the same 26 miles of seasonally restricted Forest Service roads as identified in the Proposed Action would be closed to all wheeled motorized use within the Blue-Grass BMU.

Alternative 4 Modified was developed for inclusion in the Final EIS in response to collaborative stakeholder alternative suggestions received during the Draft EIS public comment period. As described below, Alternative 4 Modified is similar in many respects to Alternative 4, but includes a few variations. Alternative 4 Modified incorporates the same road repair and maintenance activities, the same eastern approach roads to Bog Creek Road, and the same administrative motorized use and winter motorized snowmobile use that are described in Alternative 4. However, Alternative 4 Modified includes a variation of the open public access on the Bog Creek Road and eastern approach roads presented in Alternative 4. It also includes a different combination of roads proposed for motorized closure as compared to the alternatives analyzed in the Draft EIS. Specifically, the roads would only be open to unlimited public motorized access from July 15 to August 15. Outside of this period, motorized access to the roads would be available for administrative use only. The gate at the east end of FSR 1009 would be left open from July 15 to August 15, and gates would be constructed at closed roads that intersect the open eastern approach roads to prevent unauthorized access.

Because there would be open public motorized access for this one-month period, the road would be designated as open.

The Final EIS addresses the potential impacts from the Proposed Action and alternatives. Evaluations were conducted on various resources present in the Blue-Grass BMU, including: threatened and endangered species, wildlife, fish, special-status plants, water, soils, recreation, and heritage.

Forest Service Pre-decisional Administrative Review (“Objection”) Process

This project is subject to 36 CFR part 218, subparts A and B of the Forest Service’s Project-level Pre-decisional Administrative Review Process. Pursuant to these regulations, only those who provided timely and specific written comments regarding the proposed project during a comment period are eligible to file an objection with the Forest Service. Issues raised in an objection must be based on previously submitted specific written comments regarding the project and attributed to the objector unless the objection is based on new information that arose after the designated opportunities for comments.

Objections to the Forest Service’s Draft ROD, including attachments, must be filed by regular mail, fax, email, hand-delivery, express delivery, or messenger service with the reviewing officer within 45 days of the date of publication of the legal notice for the objection process. This *Federal Register* notice is not the legal notice for purposes of the Forest Service’s objection process. Instead, a separate legal notice will be published in the newspaper of record, the Coeur d’Alene Press. The publication date of the legal notice in the newspaper of record is the exclusive means for calculating the time to file an objection, and those wishing to object should not rely upon dates or timeframe information provided by any other source. It is the objector’s responsibility to ensure

timely filing of a written objection with the reviewing officer and to retain evidence of timely filing, as determined by the following indicators: the date of the U.S. Postal Service postmark for an objection received before the close of the fifth business day after the objection filing period; the agency's electronically generated posted date and time for email and facsimiles; the shipping date for delivery by private carrier for an objection received before the close of the fifth business day after the objection filing period; or the official agency date stamp showing receipt of hand delivery. For emailed objections, the sender should receive an automated electronic acknowledgement from the agency as confirmation of receipt. If the sender does not receive an automated acknowledgment of receipt of the objection, it is the sender's responsibility to ensure timely filing by other means.

Objections to the Forest Service Draft ROD must be filed with the reviewing officer in writing. All objections are available for public inspection during and after the objection process. Incorporation of documents by reference is not allowed, except for the following list of items that may be referenced by including date, page, and section of the cited document, along with a description of its content and applicability to the objection: all or any part of a Federal law or regulation; Forest Service directives and land management plans; documents referenced by the Forest Service in the proposed project EA or EIS that is subject to objection; and comments previously provided to the Forest Service by the objector during public involvement opportunities for the proposed project where written comments were requested by the responsible official. All other documents must be included with the objection.

At a minimum, an objection to the Forest Service Draft ROD must include the following: objector's name and address as defined in 36 CFR 218.2, with a telephone number, if available; signature or other verification of authorship upon request (a scanned signature for electronic mail may be filed with the objection); when multiple names are listed on an objection, identification of the lead objector; verification of the identity of the lead objector must be provided upon request or the reviewing officer will designate a lead objector; the name of the proposed project, the name and title of the responsible official, and the name(s) of the national forest(s) and/or ranger district(s) on which the proposed project will be implemented; a description of those aspects of the proposed project addressed by the objection, including specific issues related to the proposed project; if applicable, how the objector believes the environmental analysis or draft decision specifically violates law, regulation, or policy; suggested remedies that would resolve the objection; supporting reasons for the reviewing officer to consider; and a statement that demonstrates the connection between prior specific written comments on the particular proposed project or activity and the content of the objection, unless the objection concerns an issue that arose after the designated opportunities for comment.

Prior Public Involvement

Public scoping for the Bog Creek Road repair and maintenance proposal was initially conducted by CBP in February and March of 2013. Information gathered from the initial scoping effort was used to inform the Agencies about what level of NEPA analysis was necessary to evaluate the proposed project. The initial scoping information included the possibility that road closures may become part of the proposed action, but did not include specific motorized road closure information. Using initial scoping

information, the Agencies determined that the NEPA analysis would be conducted through an EIS process.

The Notice of Intent (NOI) stating that CBP and the Forest Service planned to prepare an EIS for the Bog Creek Road Project was published in the *Federal Register* on April 27, 2016 (81 FR 24839). The NOI asked for public comment on the proposal from April 27 to May 27, 2016. The Proposed Action described in the NOI included both repair and maintenance of Bog Creek Road and motorized road closures of specific road segments in the Blue-Grass BMU. In total, 17 comment letters were received during the NOI scoping period.

All scoping comments submitted during the initial scoping and NOI scoping were included in issue development for the current EIS process. A Scoping Report that summarizes both scoping efforts is available for review as part of the project record. The Scoping Report is available on the CBP public website:

<https://www.cbp.gov/document/environmental-assessments/bog-creek-road-project-environmental-impact-statement>.

The Draft EIS publication was announced in the *Federal Register* on June 1, 2018 (83 FR 25472). The 45-day public comment period started the day following publication and was extended 15 additional days. See notice published in the *Federal Register* on July 20, 2018 (83 FR 34601). Interested parties submitted specific written comments by email, in person, and U.S. Postal Service mail. The Agencies also held public meetings in Bonners Ferry, Priest Lake, and Sandpoint, Idaho to provide opportunities for the public to understand the proposed action and alternatives. One hundred seven comment letters were received on the Draft EIS. More information on the public comment process and

agency responses to Draft EIS public comments are presented in Appendix C of the Final EIS.

Public Involvement in Historic Preservation Activities Under Section 106 of the National Historic Preservation Act

Section 106 of the National Historic Preservation Act (NHPA) requires Federal agencies to review all actions which may affect resources listed on, or eligible for, the National Register of Historic Places in order to take into account the effects of their undertakings on historic properties. In the *Federal Register* notice published on June 1, 2018 (83 FR 25472), and in accordance with the NHPA, the Agencies requested public comments on historic preservation issues related to the road repair and closure of roads for motorized use. This process also afforded the Idaho State Historic Preservation Officer and tribal governments a reasonable opportunity to comment on such undertakings. The Agencies received one comment specific to historic preservation issues.

Next Steps

After the Forest Service objection filing period is complete, the Forest Service reviewing officer will issue a written response to the objections. The written response will set forth the reasons for the response, and may include instructions to the Forest Service's responsible official. If more than one objection is filed, the reviewing officer may consolidate objections and issue one or more responses.

The Forest Service's responsible official will then address all concerns and instructions identified in the written response. Thereafter, the Forest Service will issue the Forest Service Final ROD. CBP will issue the CBP Final ROD at about the same time but no sooner than April 1, 2019. The Forest Service Final ROD and the CBP Final ROD will be made available to the public through an NOA in the *Federal Register*.

Dated: February 8, 2019.

Karl H. Calvo,

Assistant Commissioner,

Office of Facilities and Asset Management,

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